

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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Sealtype	J.n.r.	Ing.
PR	77139	TH
22 JAN. 2004		
AS 400	DK	Til hvem TH

PCT

WRITTEN OPINION (PCT Rule 66)

Applicant's or agent's file reference 77139 TN/kp		REPLY DUE	within 3 month(s) from the above date of mailing
International application No. PCT/IB 03/00832	International filing date (day/month/year) 06.03.2003	Priority date (day/month/year) 07.03.2002	
International Patent Classification (IPC) or both national classification and IPC B65D65/40			
Applicant INTER IKEA SYSTEMS B.V. et al.			

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 07.07.2004

Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Cazacu, C Formalities officer (incl. extension of time limits) Siedsma, Y Telephone No. +49 89 2399-7242 
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-8 as originally filed

Claims, Numbers

1-6 received on 15.12.2003 with letter of 12.12.2003

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

- the entire international application,
 claims Nos. 1-6

because:

- the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
 the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1 are so unclear that no meaningful opinion could be formed (*specify*):
see separate sheet
 the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 no international search report has been established for the said claims Nos.

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the Standard provided for in Annex C of the Administrative Instructions:

- the written form has not been furnished or does not comply with the Standard.
 the computer readable form has not been furnished or does not comply with the Standard.

III.

1. The application does not meet the requirements of Article 6 PCT, because claim 1 is not clear.

The term "small" used in claim 1 is vague and unclear (especially in the light of what is meant by this term according to the description (a $\pi/4$ to $\pi/3$ angle range can hardly be described as "small") and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claim unclear (Article 6 PCT).

2. Leaving aside the unclarities in claim 1, document EP-A-0 424 526 (D1), which is considered to represent the most relevant state of the art, discloses (cf. Figs. 4, 6) a packaging material from which the subject-matter of claim 1 differs in that a) it comprises a second auxiliary corrugated paper layer and b) by a phase displacement between the waves of the auxiliary corrugated layers.

Should the problem to be solved be to improve the rigidity of the structure, the use of a second corrugated paper layer is described in document US-A-6 207 242 (D3) (see Fig. 3) as providing the same advantages as in the present application.

Referring to the phase displacement feature, the same document D3 discloses (Fig. 3) the presence of a displacement (90° or $\pi/2$) between corresponding waves.

It would appear thus that the insertion of the feature regarding the $\pi/4$ to $\pi/3$ angle range is necessary not only in order to remove the unclarity objection made under Item 3, but also in order to convey the subject-matter of claim 1 an inventive step.

Should claim 1 be reformulated in accordance with the above, its subject-matter could be regarded as new and inventive, since no prior art document at hand discloses such a wave phase displacement (for example, document US-A-4 012 276 (D4), cited by the examiner and appended to the present written opinion, discloses wave phase displacement, but this is the result of using different types of corrugated layers, not identical ones). The use of a wave phase displacement between identical corrugated layers is nowhere disclosed or hinted at in the prior art at hand.

3. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

The description is not in conformity with the claims as required by Rule 5.1(a)(iii) PCT (in particular the embodiments not covered by the claims should be deleted or designated as part of the prior art or useful for the understanding of the invention).

Claim 3 should also be adapted.